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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,888	01/10/2002	Jonas L. Steinman	102.004	6273
8791 7590 02/08/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
DURAN, ARTHUR D				
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3622				
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02/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/043,888

Applicant(s)

STEINMAN ET AL.

Examiner

Arthur Duran

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,13-15,20,22,23,56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) 28,32,35,37,41,44 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10,13-15,20,22,23,56 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 28,32,35,37,41,44 and 45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 10, 13-15, 20, 22, 23, 56, 57 have been examined.

Response to Amendment

2. The Amendment filed on 11/30/07 is insufficient to overcome the prior rejection.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 10, 13-15, 20, 22, 23, 56, 57, drawn to a brand component, a small form of an ad and a large form of an ad, classified in class 705, subclass 14.
 - II. Claims 28, 32, 35, 37, 41,44, 45, drawn to a adapting the size of a webpage to fit an advertisement, classified in class 705, subclass 14.

Inventions I, and II are based on different sets of Independent claims. Group I involves a brand component, a small form of an ad and a large form of an ad. Group II involves adapting the size of a webpage to fit an advertisement.

Because these inventions are distinct for the reasons given above and the search required for Group I is different than the search required for each of Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jennifer Hayes at 408-720-8300 on January 31, 2008 a provisional election was made without traverse to prosecute the invention of Group I, Claims 10, 13-15, 20, 22, 23, 56, 57. Affirmation of this election must be made by applicant in replying to this Office action. Claims 28, 32, 35, 37, 41,44, 45 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. **Claims 10, 13, 14, 20, 22-23, and 57 are rejected under 35 U.S.C. 102(a) as being anticipated by Fredrickson et al. (US 2002/0019768 A1). Fredrickson et al. teaches of a method and system for managing advertisements.**
5. Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).
6. Regarding claims 10, 22, and 23, Fredrickson et al. teaches of a method, system, and computer code for managing advertisements on a website. Fredrickson et al. gives sample screen shots of the website in Figures 1-40. ([0009]-[0047]). Applicant teaches that a ‘brand component’ on a Web Page “may include a single logo or trademark or a trademark in conjunction with brief text message.” (2002/0143630, [0067]). Likewise, Fredrickson et al. shows a ‘brand component’ on a sample screen shot in Figure 21. (Fig. 21).

Fredrickson et al. shows a small form of an advertisement in another sample screen shot in Figure 22 as well as a large form of that advertisement in Figure 24. (Fig. 22; Fig. 24). Therefore, Fredrickson et al.’s screen shots show a brand component on a first web page (Fig. 21), a small form of an advertisement on a second web page (Fig. 22), and a large form of an advertisement on a third web page (Fig. 24).

Additionally, Fredrickson anticipates serving different forms of an advertisement and a brand component from the same sponsor on different pages of a website. Fredrickson anticipates serving a brand component associated with a sponsor on a first Web page.

Fredrickson discloses a wide variety of advertising and ad customizing (Abstract). Fredrickson further discloses a brand component version of an ad associated with a sponsor of a web page (Figure 2, "Ad Manager"; and also, Figure 31, "ABCompany"; Figure 12, "ABCompany"; Figure 22, "ABCompany"). Fredrickson further discloses a thumbnail version of an ad ([58]) and a banner version of an ad ([124]). Fredrickson further discloses controlling ad sizing ([126]). Fredrickson further discloses a small version of an ad (Figure 22) and also a large version of an ad (Figure 24). Fredrickson further discloses online advertising ([55]). Also, Examiner notes that an ad placed on a webpage functions as a sponsor for that webpage. Since a webpage receives revenues from ads placed on the webpage, an ad placed on a webpage functions as a sponsor of the webpage. Alternatively, an ad on a webpage is placed as self-advertising by the actual host of the webpage (as in the Ad Manager example, Figure 2). Either way, an ad on a webpage functions as an ad of a sponsor of the webpage. And, Fredrickson discloses an ad which is a brand component, and an ad which is small and an ad which is large. Hence, Fredrickson anticipates a brand component ad of a page sponsor, a small ad of a page sponsor, and a large ad of a page sponsor.

Also, note that the claims do not require the ad forms all be of the same ad. The claims only require that the ad all be for the same ad sponsor. And, Fredrickson discloses numerous versions and sizes of the Ad for ABCompany (Figures 12, 22, 24, 28, 29, 30, 31, 35, 40). Note that these are different versions and forms and sizes of ads placed by ABCompany and that all of

these ads feature the ABCCompany logo in them. Hence, Fredrickson anticipates a brand component for ABCCompany (Figure 31); a small ad for ABCCompany (Figure 22); and a large ad for ABCCompany (Figure 24). And, Fredrickson discloses that these ads can be placed online ([55]). And, online advertisers function as a sponsor of the webpages on which they advertise.

Hence, Fredrickson discloses an advertiser/sponsor placing a brand component, a small ad, and a large ad on different webpages.

7. Regarding claim 13, Fredrickson et al. shows in Figure 5 thumbnail versions of advertisements. (Fig. 5; [0058]). If a user wants to view the actual advertisement, a user clicks on the thumbnail to be connected to another page to see the full advertisement. ([0058]). Providing a clickable advertisement thumbnail is an indication of an opportunity to view.
8. Regarding claim 14, Figures 24 and 25 show a sample "Order Confirmation" page. (Fig.'s 24-25; [0032]). The confirmation page shows the original advertisements that were displayed to the user and confirms the user's order. ([0121]). Therefore, a user who accepts the order is confirming that they have viewed the advertisement prior to publication.
9. Regarding claim 20, Figure 24 shows a scroll bar implying that the web page is scrollable by the user. (Fig. 24).
10. Regarding claim 57, ¶¶'s 8 and 9 from above apply here.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 15 and 56, including amended claims, are rejected under 35 U.S.C. 103(a) as being anticipated by Fredrickson et al. (US 2002/0019768 A1) in view of Godin et al. (US 5,890,138).

12. Regarding claims 15 and 56, Fredrickson et al. shows screen shots of displaying a brand component, small form of an advertisement, large form of an advertisement, and a confirmation page. (Fig.'s 1-40). As stated above, Fredrickson et al. shows a confirmation page that implicitly confirms that a viewer has viewed an advertisement.

Fredrickson et al. does not explicitly teach of displaying the confirmation page for a fixed time period. However, Godin et al. teaches of a displaying a confirmation screen that is displayed for a fixed time, namely two minutes. (Col 6, Lines 65-67). Like Fredrickson et al., Godin et al. teaches of an order confirmation page. (Col 6, Lines 37-67). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have added to Fredrickson et al.'s teaching of a confirmation page with Godin et al.'s page of displaying the confirmation screen for a fixed amount of time. One would have been motivated for numerous reasons. A site implements a fixed amount of time to confirm an order in order to prevent open orders from sitting indefinitely. Additionally, it is done for security purposes in order to ensure that a user is still at the computer.

Response to Arguments

13. Applicant's arguments with respect to the claims have been considered but are not found persuasive.

On page 12 of the Applicant's Remarks dated 11/30/2007, Applicant states, "Fredrickson does not describe serving different forms of an advertisement and a brand component from the same sponsor on different pages of a website. In particular, Fredrickson fails to teach or suggest "serving a brand component associated with a sponsor on a first Web page," as claimed in claim 10."

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Fredrickson discloses a wide variety of advertising and ad customizing (Abstract). Fredrickson further discloses a brand component version of an ad associated with a sponsor of a web page (Figure 2, "Ad Manager"; Figure 31, "ABCompany"; Figure 12, "ABCompany"; Figure 22, "ABCompany"). Fredrickson further discloses a thumbnail version of an ad ([58]) and a banner version of an ad ([124]). Fredrickson further discloses controlling ad sizing ([126]). Fredrickson further discloses a small version of an ad (Figure 22) and also a large version of an ad (Figure 24). Fredrickson further discloses online advertising ([55]). Also, Examiner notes that an ad placed on a webpage functions as a sponsor for that webpage. Since a

webpage receives revenues from ads placed on the webpage, an ad placed on a webpage functions as a sponsor of the webpage. Alternatively, an ad on a webpage is placed as self-advertising by the actual host of the webpage (as in the Ad Manager example, Figure 2). Either way, an ad on a webpage functions as an ad of a sponsor of the webpage. And, Fredrickson discloses an ad which is a brand component, and an ad which is small and an ad which is large. Hence, Fredrickson anticipates a brand component ad of a page sponsor, a small ad of a page sponsor, and a large ad of a page sponsor.

Additionally, note that the claims do not require the ad forms all be of the same ad. The claims only require that the ad all be for the same ad sponsor. And, Fredrickson discloses numerous versions and sizes of the Ad for ABCCompany (Figures 12, 22, 24, 28, 29, 30, 31, 35, 40). Note that these are different versions and forms and sizes of ads placed by ABCCompany and that all of these ads feature the ABCCompany logo in them. Hence, Fredrickson anticipates a brand component for ABCCompany (Figure 31); a small ad for ABCCompany (Figure 22); and a large ad for ABCCompany (Figure 24). And, Fredrickson discloses that these ads can be placed online ([55]). And, online advertisers function as a sponsor of the webpages on which they advertise.

Hence, Fredrickson discloses an advertiser/sponsor placing a brand component, a small ad, and a large ad on different webpages.

Hence, Fredrickson anticipates the features of the Applicant's claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/31/2008